United Nations S/AC.37/2003/(1455)/28

Security Council

Distr.: General
22 April 2003
English
Original: Russian

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 22 April 2003 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Russian Federation to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report of the Russian Federation prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003 (see annex).

03-35228 (E) 160503 190503

Annex to the note verbale dated 22 April 2003 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Committee

Report of the Russian Federation to the Security Council Committee established pursuant to resolution 1267 (1999) submitted in accordance with paragraph 6 of Security Council resolution 1455 (2003)

In accordance with paragraph 6 of Security Council resolution 1455 (2003), which calls for the submission of updated reports on the steps taken to improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), the Russian Federation has the honour to transmit the following information to the Security Council Committee established pursuant to resolution 1267 (1999).

The resolutions referred to above have been implemented in the Russian Federation by means of presidential decrees:

Resolution 1267 of 15 October 1999 — Decree No. 786 of 5 May 2000

Resolution 1333 of 19 December 2000 — Decree No. 266 of 6 March 2001

Resolution 1390 of 16 January 2002 — Decree No. 393 of 17 April 2002

Under the terms of Federal Act No. 130 of 25 July 1998 "On measures to combat terrorism", the agencies directly involved in counter-terrorism activities are the Federal Security Service, the Ministry of Internal Affairs, the Ministry of Defence, the Foreign Intelligence Service, the Federal Border Service and the Federal Protection Service.

Currently, coordination among the agencies involved in counter-terrorism is ensured by the Federal Counter-Terrorist Commission, established by decision No. 1302 of the Government of the Russian Federation, of 6 November 1998.

Coordination has also been achieved through the establishment of an interdepartmental conference to develop measures to address the consequences of the terrorist attack on the concert hall of the Moscow ball-bearing factory (Moskovsky podshipnik) and eliminate the circumstances which made the attack possible. It comprises the heads of the Ministry of Internal Affairs, the Federal Security Service, the Federal Tax Investigation Service, the Ministry of Defence, the Ministry of Emergency Situations, the Ministry of Taxation and Revenue, the Ministry of Health, the Ministry of Justice, the Ministry of Economic Development and Trade, the Financial Monitoring Committee of the Ministry of Finance and the Central Bank of the Russian Federation. The conference is headed by the first deputy minister and the chief of the Criminal Investigation Service of the Ministry of Internal Affairs.

The interdepartmental conference has eight working groups dealing with the practical issues of eliminating the conditions which enable terrorist and extremist activity to take place, especially conditions which make it possible to channel funds to Chechen and other ethnic criminal groups formulating plans to destabilize the situation in the country. The working groups organize and oversee the network of

measures aimed at cutting off the funding of extremists through businesses, banks and financial institutions, tracking down individuals who participated in committing or are planning terrorist acts, combating illegal migration, monitoring the safety of weapons explosives and ammunition and preventing their illicit trade and improving the protection of critical or environmentally hazardous industries, enterprises using radioactive or chemical substances, and other essential services and transport.

In order to further develop the legal basis for intensifying the fight against terrorist crimes and the financing of terrorist activities and providing effective protection for victims, witnesses and other individuals involved in criminal proceedings, the following legal acts have recently been promulgated and implemented:

- International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999), ratified by Federal Act No. 88 of 10 July 2002 "On the ratification of the International Convention for the Suppression of the Financing of Terrorism".

- Federal Act No. 62 of 31 May 2002 "On citizenship of the Russian Federation" (entered into force on 1 July 2002); this Act sets out the principles regulating citizenship of the Russian Federation and the rules governing relations connected with that citizenship. It establishes the basis, conditions and procedure for acquiring or losing citizenship.

- Federal Act No. 103 of 24 July 2002 "On additions to the legislative acts of the Russian Federation" (in the area of enhancement of counter-terrorism): supplements article 205, section 1 of the Criminal Code of the Russian Federation by establishing criminal responsibility for inciting others to commit terrorist crimes, encouraging others to participate in the activities of terrorist organizations, and supplying arms or training for the commission of terrorist acts and also for financing terrorist acts or terrorist organizations. Moreover, under article 2 of the same Federal Act, article 205, section 1 of the Criminal Code applies to the jurisdiction of the organs of the Federal Security Service.

- Federal Act No. 114 of 25 July 2002 "On the prevention of extremist activities": aims to protect citizens' and individuals' rights and freedoms and the foundations of the constitutional order, to safeguard the integrity and security of the Russian Federation, to determine the legal and institutional foundations for combating extremist activity and to establish accountability for carrying out such activity.

- Federal Act No. 112 of 25 July 2002 "On the introduction of amendments and additions to the legislation of the Russian Federation in connection with the adoption of the Federal Act 'On the prevention of extremist activities'" (in the area of harmonizing the provisions of the Code of Civil Procedure of the Russian Soviet Federal Socialist Republic, the Act of the Russian Federation on the mass media, the Federal Act on public associations, the Federal Act on weapons and other instruments with the norms of the Federal Act on countering extremist activity).

- Federal Act No. 131 of 30 October 2002 "On amendments and additions to the Federal Act on the prevention of the legalization of funds obtained by criminal means (money-laundering)": sets up a State mechanism to monitor financial flows of criminal origin. The Federal Act also closes a legal loophole in the

area of State prevention of the financing of terrorism. To those ends, it widens the scope of legal regulation introduced by the Federal Act on the prevention of the legalization of funds obtained by criminal means (money-laundering).

- Federal Act No. 3 of 10 January 2003 "On the ratification of the Shanghai Convention on combating terrorism, separatism and extremism".

- Federal Act No. 7 of 10 January 2003 "On amendments and additions to the Federal Act on the procedure for entry into and departure from the Russian Federation" (not yet in force), specifying certain provisions relating to border formalities on entry into and departure from the Russian Federation and determining types of visas and the grounds and procedures for issuing and extending them.

In accordance with resolutions 1267 (1999) and 1390 (2002), the Security Council Committee established pursuant to resolution 1267 (1999) included in the list of individuals and entities subject to the measures contained in these resolutions the following Chechen groups: the Islamic International Brigade, the Special Purpose Islamic Regiment and the Riyadus-Salikhin Reconnaissance and Sabotage Battalion of Chechen Martyrs. This decision was an acknowledgement by the United Nations of the terrorist nature of the activities of these formations and points to the existence of direct and indisputable links between them and the al-Qa'idah international terrorist network, Osama bin Laden and the Taliban.

It should also be noted that the humanitarian aid association Madli is operating in the territory of Georgia — Madli is an affiliate of the international "charitable" fund Benevolence International Foundation, which is included in the list of entities subject to the measures contained in Security Council resolution 1390 (2002). The Georgian authorities, however, have refused to freeze the bank holdings of its affiliate, which may be considered a violation of the requirements of the financial embargo imposed by the Security Council on the Taliban, al-Qa'idah and their accomplices.

On 26 November 2002, in the cities of Kazan and Moscow, a set of measures was implemented to suppress the anti-Russian activities of one of the emissaries of the Egyptian terrorist group Gamaa Islamia, the Egyptian citizen Ali Arif Abdelaziz Abdelmokhsin, and his closest associate Akhmed Nasser Akhmed Nasr-El Din in the context of the Plan of joint operational-investigative measures of the Chief directorate for combating organized crime of the Criminal Investigation Service of the Ministry of Internal Affairs and Department 2 of the Federal Security Service to suppress the activities of supporters of the international Islamic extremist organization Muslim Brothers in the territory of the Russian Federation.

As a result of the operational-investigative measures, these persons were removed from the Russian Federation.

The Chief directorate for combating organized crime of the Criminal Investigation Service of the Ministry of Internal Affairs has gathered and transmitted to the Office of the Procurator-General of the Russian Federation materials pointing to the criminal activities of the Russian citizens Ravil Shafievich Gumarov, Rasul Vladimirovich Kudaev, Timur Ravilevich Ishmuratov, Airat Nasimovich Vakhitov, Rustam Salikhyanovich Akhmyarov, Ravil Kamilevich Mingazov, Ruslan Anatolevich Odizhev and Shamil Ravilovich Khazhiev, who

agreed, in exchange for material reward, to participate as mercenaries in the armed conflict in the territory of Afghanistan on the side of the Taliban.

The aforementioned citizens were detained in the vicinity of the city of Mazar-e-Sharif in November 2001 in the course of the counter-terrorist operation conducted in the territory of Afghanistan by the armed forces of the United States of America and are currently being held at the military base at Guantanamo, Cuba.

The department of the Office of the Procurator-General of the Russian Federation responsible for the investigation of crimes relating to federal security and inter-ethnic relations in the Northern Caucasus is conducting criminal case No. 11058, which was instituted on 29 March 2003 on the basis of evidence of offences against detainees envisaged in article 322, article 359, paragraph 3, and article 210, paragraph 2, of the Criminal Code of the Russian Federation.

In addition to the aforementioned information, the Russian Federation has at its disposal data enabling the inclusion in the consolidated list of the Security Council Committee established pursuant to resolution 1267 (1999) of the following persons, who are closely associated with the Taliban and the al-Qa'idah international terrorist organization:

1. Moulavi Akhtar Mokhammad Usmani — former commander of the Second Army Corps of the Taliban regime. Usmani's detachments are operating in Panjvai district, which is located 35-37 kilometres south-west of the city of Kandahar. Apart from local Pashtuns, his unit includes around 35 foreigners, among them Arabs, Chechens, Uzbeks and Pakistanis. The task of Usmani's armed detachments is to perpetrate terrorist acts against subdivisions of the coalition forces.

2. Rais Abdul Bakhid — field commander. Armed detachments led by him are active in Bagran district, Kandahar province. Bakhid has regular contact with the Taliban leader M. Omar.

3. M. Oman — Uzbek by birth, member of the Islamic Party of Turkestan (former Islamic Movement of Uzbekistan). Formed an armed Uzbek detachment of 15 men in the Kakhgak Bana district of the city of Peshawar. Oman has links to the Taliban through the former chief of staff of the Taliban leader Nasyr Akhmad.

4. Abdulgani Bat — leads several fighters who trained in one of the al-Qa'idah chemical laboratories in south-east Afghanistan. The tasks of the group headed by him include the commission of terrorist acts using chemical substances against a number of foreign embassies in Kabul.

The Russian Federation is taking decisive steps to combat the financing of terrorism in accordance with Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

The Federal Act "On the prevention of extremist activities" (No. 114 of 25 July 2002) was adopted. Under this Act, a public or religious association or other organization may be liquidated, and the activities of a public association which is not a body corporate may be prohibited by decision of a court, on the basis of an application by the Procurator-General of the Russian Federation or by a procurator under his authority and also on the basis of an application by a federal executive body in the field of justice or a territorial organ thereof.

In the event that the activities of public or religious associations are stopped, they are barred from using bank deposits except to pay amounts owed in connection with their economic activities, compensation for losses (damages) caused by their actions and taxes, dues or fines, and to make payments under contracts of employment.

The Federal Act "On the introduction of amendments and additions to legislation of the Russian Federation in connection with the adoption of the Federal Act 'On the prevention of extremist activities'" (No. 112 of 25 July 2002) was adopted. Pursuant to the Act, amendments were made to a number of federal laws, including the Federal Act "On the prevention of the legalization of funds obtained by criminal means (money-laundering)". Under that Federal Act, operations involving funds or other assets subject to compulsory monitoring include operations where at least one of the parties is an extremist organization, or an entity owned or controlled, directly or indirectly, by such organization or individual, or an individual or entity acting on behalf of or at the direction of such organization or individual.

Taking into account the relevant requirements of the Security Council resolutions, amendments have been drafted and introduced in the Federal Act "On the prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism"; the amendments entered into force on 3 January 2003 (Federal Act No. 131 of 30 October 2002). These changes, inter alia, allow the legal mechanisms of the Federal Act to be used to combat terrorist financing.

Thus, in accordance with these amendments, institutions conducting operations that involve funds or other assets are obliged to suspend the operations for two working days if at least one of the parties is an organization or individual in respect of whom there is information concerning their participation in extremist activity, or an entity owned or controlled, directly or indirectly, by such organization or individual, or an individual or entity acting on behalf of or at the direction of such organization or individual.

An entity or individual may be included in this list, inter alia, on the basis of the lists of entities and individuals associated with terrorist organizations or terrorists compiled by the international organizations combating terrorism or by the bodies authorized thereto by those organizations, where such lists are recognized by the Russian Federation. These lists are disseminated among the institutions conducting operations that involve funds or other assets. Information on operations must be transmitted to the responsible organ, which issues a decision suspending these operations for a period of up to five days if it deems the information received concerning the results of the preliminary check to be well-founded.

Subsequently, this information must be transmitted to the law enforcement agencies. In order to ensure execution of a judgement of a court with respect to a civil action, other seizure of property or possible confiscation of property, the procurator or, with the consent of the procurator, the person conducting the initial inquiry or pre-trial investigation may apply to the court for the seizure of the property of the suspect, the accused person or the persons bearing material responsibility for their actions (Code of Criminal Procedure, art. 115). Such application must be considered by a judge in person within no more than 24 hours of its receipt.

The Federal Act "On the introduction of amendments and additions to legislation of the Russian Federation" (No. 103 of 24 July 2002) introduced in the Criminal Code article 205.1, which establishes responsibility for the involvement of others in committing crimes of a terrorist nature and other facilitation of such crimes, including the financing of an act of terrorism or a terrorist organization, and stipulates, as a penalty, deprivation of liberty for four to 15 years with or without confiscation of property.

Decree No. 1263 of the President of the Russian Federation of 1 November 2001 "On the organ empowered to prevent the legalization of funds obtained by criminal means (money-laundering)" established the Financial Monitoring Committee of the Russian Federation, which is the federal executive body empowered to take measures to prevent the legalization of funds obtained by criminal means (money-laundering) and to coordinate activities of other federal executive bodies in this area.

In accordance with article 6 of the Federal Act "On measures to combat terrorism" (No. 130 of 25 July 1998) and Decree No. 660 of the Government of the Russian Federation of 22 June 1999 (version of 4 April 2002), the Financial Monitoring Committee is the federal executive body participating, within its terms of reference, in the prevention, detection and suppression of terrorist activities.

In accordance with the regulations on the Financial Monitoring Committee of the Russian Federation, approved by decree No. 211 of the Government of the Russian Federation of 2 April 2002 (version of 6 February 2003), the Financial Monitoring Committee has the following tasks in the area of combating the financing of terrorism:

- Collection, processing and analysis of information, documents, intelligence and other materials about operations (transactions) involving funds or other assets which are subject to monitoring in accordance with the legislation of the Russian Federation;
- Establishment of a unified information system and maintenance of a federal database;
- Transmission of relevant information to the law enforcement agencies in accordance with their areas of competence where there are adequate grounds indicating that an operation (transaction) that involves funds or other assets is linked with the financing of terrorism;
- In accordance with the Russian Federation's international treaties, cooperation and exchange of information with the competent bodies of foreign States in the area of combating the financing of terrorism;
- Representation of the Russian Federation, under the established procedure, in international organizations during consideration of issues of combating the financing of terrorism.

The authority vested in the Financial Monitoring Committee in the area of combating the financing of terrorism in accordance with Federal Act No. 131 of 30 October 2002 has created a legal basis for implementation of the mechanism for tracking and halting operations involving funds or other assets which are carried out with a view to supporting terrorist activity.

The Financial Monitoring Committee, in terms of its powers and the functions it carries out, meets the requirements laid down for financial intelligence units and corresponds to the definition of a financial intelligence unit formulated by the Egmont group. In June 2002 the Financial Monitoring Committee of the Russian Federation was admitted to the Egmont group, and from mid-August 2002, it joined the closed channel for the exchange of information operating under the auspices of the group.

In its work, the Financial Monitoring Committee actively cooperates with the financial intelligence units of other countries. At present, agreements on cooperation in the sphere of preventing the legalization of funds obtained by criminal means (money-laundering) have been concluded with the financial intelligence units of the Czech Republic, Belgium, Italy, Panama and France. Currently, a number of investigations are under way, on the basis of materials sent abroad. Under one of them, which has the external characteristics of financing of international terrorism, work is being conducted jointly with the Justice Department of the United States of America. This concerns the international Islamic charitable fund "Benevolence International Foundation", which has its headquarters in Chicago, and is included in the Committee's list.

The Financial Monitoring Committee plans in future to expand the mutual exchange of information, including warnings, with the corresponding bodies of other countries concerning the activities of terrorist organizations and sources of their financing.

In accordance with paragraph 7 of the Federal Act, in the area of combating the financing of terrorism, institutions conducting operations that involve funds or other assets are required to identify their customers and also confirm in writing and provide to the competent body no later than the working day following the day on which the operation is carried out the following information about operations involving funds or other assets which are subject to compulsory monitoring:

- The type of operation and the basis for carrying it out;
- The date of completion of the operation involving funds or other assets, and also the amount for which it was carried out;
- The information necessary for identifying an individual who is carrying out the operation involving funds or other assets (data on passport or other document confirming identity), the taxpayer's identification number (if any), and the address of his place of residence or stay;
- The title, taxpayer's identification number, registration number, place of registration and the address of a legal entity carrying out an operation involving funds or other assets;
- The information necessary for identifying an individual or legal entity under whose instructions or on whose behalf the operation involving funds or other assets is carried out, the taxpayer's identification number (if any), and the address of the place of residence or stay of the individual or legal entity;
- The information necessary for identifying a representative of an individual or legal entity which is carrying out an operation involving funds or other assets on behalf of another person under the authority based on a power of attorney, law or instrument of a competent State body or local self-government body,

and the address of the place of residence of the representative of the individual or legal entity;

- The information necessary for identifying a client under the operation involving funds or other assets and his representative, including the taxpayer's identification number (if any) and the address of the place of residence or place of stay of the client and his representative, if envisaged in the rules for carrying out the operation in question;

- Provide to the competent body, at its written request, the information indicated in subparagraph 2 of this paragraph, both in relation to operations subject to compulsory monitoring, and in relation to the operations indicated in paragraph 3 of this article.

In accordance with article 7, paragraph 2 of the Federal Act, in order to prevent the financing of terrorism, institutions must draw up internal monitoring rules and programmes for their implementation, designate special officials responsible for compliance with the rules and implementation of the programmes, and also undertake other internal organizational measures for these purposes.

The internal monitoring rules of an institution conducting operations that involve funds or other assets must include a system for record-keeping, a system of data confidentiality guarantees, skills training for supervisors, and also criteria for exposing and identifying unusual transactions, taking into account the particular characteristics of the work of the institution.

Institutions conducting operations that involve funds or other assets in accordance with internal monitoring rules must record information received as a result of the application of the rules and the implementation of programmes for carrying out internal monitoring, and maintain its confidentiality.

The grounds for the recording of information are:

- Obscure or unusual nature of a transaction, with no obvious economic value or legal purpose;

- Inconsistency of the transaction with the goals of the activity of the institution established in the constituent documents of that institution;

- Repeated execution of operations or transactions, the nature of which gives grounds for believing that their goal is to evade the compulsory monitoring procedures envisaged in this federal act;

- Other circumstances giving grounds for believing that transactions are carried out for the purposes of legalizing funds obtained by criminal means (money-laundering), or the financing of terrorism.

Documents confirming this information, and also copies of documents necessary for personal identification, must be kept for at least five years.

Credit institutions are prohibited from opening accounts for (accepting deposits from) anonymous owners, that is to say, without submission by the individual or legal entity opening the account (making the deposit) of the documents necessary for identification. Moreover, credit institutions have the right to refuse to conclude bank account agreements (deposit agreements) with individuals or legal entities in the event that the entity concerned does not provide documents

confirming the specified information, or provides unreliable documents, and also in cases where there is information received in the prescribed manner concerning participation of the entity in terrorist activities.

Institutions also have the right to refuse to carry out the instructions of clients to perform operations for which the necessary supporting documents have not been submitted.

Suspension of operations and refusal to perform operations cannot give rise to civil liability of institutions conducting operations involving funds or other assets on grounds of violation of the conditions of the relevant agreements.

These provisions (with the exception of those determined by the characteristics of banking activity) on compulsory monitoring, client identification and transmission of information about suspicious transactions apply to professional brokers in the securities market, insurance and leasing companies, federal postal bodies, pawn shops, institutions engaged in the consolidation, purchase and sale of precious metals and precious stones, articles of jewellery made from them and scrap from such articles, institutions maintaining betting and bookmaking offices, and also conducting lotteries and other games in which the organizer raffles a prize fund among the participants, including by electronic means, and also institutions engaged in the management of investment funds or non-State pension funds.

In November 2002, proposals by the Federal Security Service of the Russian Federation to establish an interdepartmental and inter-State information system and database on counter-terrorism were considered and supported by the Government of the Russian Federation.

In order to prevent the commission of acts of terrorism, including through early warning to other States about terrorists' movements and plots, operational information is collected and transmitted to the Ministry of Internal Affairs on an ongoing basis in order to facilitate work with foreign partners on specific cases of support by individuals and legal entities for international terrorism, terrorist groups and organizations.

The Russian Federation pays special attention to inter-State cooperation in the area of strengthening border control on the Afghan border in order to prevent the entry into its territory or transit through it of persons included in the consolidated list.

In implementation of Security Council resolution 1455 (2003), the Federal Border Service of the Russian Federation carries out the following measures:

1. Together with the federal executive bodies concerned, it reviews the question of providing assistance to the border department of Afghanistan (the Ministry of Border Matters, Tribes and nationalities) in preparing Afghan soldiers for short-term courses at the training centre run by the border group from the Russian Federation's Federal Border Service in Tajikistan, and also training of national border staff in higher educational institutions of the Federal Border Service of the Russian Federation.

2. Representatives of the Federal Border Service of the Russian Federation in Kabul are continuing to provide advisory assistance in establishing Afghanistan's national border structures and creating a system for protection of the State border.

3. The implementation of measures for the development of cooperation and liaison with the border protection bodies of Afghanistan operating on the Tajik-Afghan border is continuing. This work is aimed at maintaining the border regime, and also removing and destroying weapons and ammunition belonging to former gang formations of the United Tajik Opposition and stored in the Afghan border area in order to prevent their further use by individuals and organizations linked with international terrorism.

4. Together with the Ministry of Internal Affairs, it carries out work aimed at ensuring a Russian border presence on the Tajik-Afghan border as an important factor in curbing drug trafficking and the activities of terrorist organizations on the southern boundaries of the member States of the Commonwealth of Independent States.

5. In order to create a legal basis for Russian-Afghan border cooperation, work is continuing on the conclusion of an interdepartmental Russian-Afghan protocol on cooperation in border issues.

The conclusion of the protocol will establish the procedure for Russian-Afghan cooperation in border issues, including the effective use of existing capacities for combating terrorism and the smuggling of narcotic drugs and halting other illegal actions on the Tajik-Afghan border.